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REMARKS

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Reconsideration of the present application is respectfully requested. No claims have been amended, canceled or added in this amendment. Claims 1, 3-12, 15-19, 29 and 31-66 remain pending.

Claims 1-8, 13, 14, 17-39, 44, 45, and 48-66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent no. 6,493,671 of Ladd et al. ("Ladd") in view of U.S. Patent no. 5,724,481 of Garberg ("Garberg"). Applicants respectfully traverse the rejection.

In Applicants' last response Applicants separately argued, and pointed out additional limitations in, independent claims 31, 60 and 61 (i.e., beyond the argued limitations of claim 1), which make those claims further patentable over the cited art (see pp. 13-14 of Applicants last response, filed on 6/7/2006). However, the present Office Action (as in the first Office Action) fails to address or even acknowledge those additional limitations which Applicants clearly pointed out, instead lumping independent claims 31, 60 and 61 together with independent claims 1 and 29 (those claims are also separately argued below relative to the new grounds of rejection). Such a conclusory rejection is improper. "The examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal." MPEP 707.07. Therefore, to the extent the Examiner may decide to assert yet another rejection in response to this submission, such rejection (if any) should be non-final and should clearly state the separate rationale for rejecting each independent claim, so that Applicants can have a full and fair opportunity to respond to the rejection.

Claims 1 and 29

Claim 1 recites:

1. (Previously presented) A method comprising:
 - establishing a speech-based dialog between a person and a machine during a call, wherein the person uses a communication device to speak to the machine via a communication channel during the call;
 - automatically detecting a characteristic during the dialog in real time, wherein the characteristic is a characteristic of the person, the communication device, the communication channel, or an environment in which the person is located during the dialog, but the characteristic does *not* uniquely identify the person, the communication device, or any user account; and
 - selecting a destination to which the call should be routed, **based on the detected characteristic, and not based on the meaning of any speech or the failure to recognize any speech during the dialog.** (Emphasis added.)

The Office Action acknowledges that Ladd fails to teach "selecting a destination to which the call should be routed, based on the detected characteristic, and not based on the meaning of any speech or the failure to recognize any speech during the dialog." However, the Office Action cites Garberg for such teaching and contends that it would be obvious to combine the teachings of Garberg and Ladd to produce the present invention. (Office Action, pp. 3-4).

Applicants respectfully disagree.

No combination of Ladd and Garberg discloses or suggests *all of the limitations* of claim

1. The Office Action states:

[E]xaminer notes that in Garberg, **the speech characteristic is speech information that is distorted by pronunciation or poor channel quality – col. 3, lines 19-23.** Based on this scenario, the user is then prompted to vocally spell the name – if there is no match of the spoken spelled utterance and a phoneme transcription, the call is routed to a human (col. 3 lines 27-33). In other words, **the call routing is based on a non-match based on phonetic transcription matching (there is no 'translation meaning mismatch, nor failure to recognize the spelling – the spelling is understood by the system, there is simply no match in the predefine database).** Therefore, it would have been obvious . . . to incorporate the spelling speech recognizer/call router technique of Garberg . . . into the recognizer of Ladd . . . Office Action, pp. 3-4 (emphasis added).

Applicants respectfully submit that the rationale for the rejection is flawed. First, the Office Action states with reference to claim 1 that the detected "characteristic" is "speech information that is distorted by pronunciation or poor channel quality". But by the Office's interpretation, when the system of Garberg decides to route the call to a live attendant, that decision is *not based on the detected characteristic* (i.e., the distorted speech information), as required by claim 1, it is based merely on *the failure to find a match*.

Regardless, Garberg also does not disclose or suggest selecting a destination for the call based on an automatically detected characteristic, where the selection is *not based on the meaning of any speech or the failure to recognize any speech during the dialog*. Figure 3 of Garberg is informative in that it clarifies what is meant in the paragraph cited by the Examiner (col. 3, lines 19-23). From Figure 3 it can be seen that when the call is routed to a live attendant, it is either in response to: 1) simply not receiving the requested input (step 304) or 2) in response to a *failure to recognize the caller's speech* (i.e., a spoken index, name or spelling; steps 316, 324 and 334, respectively). In the first scenario (step 304), the decision to route the call to a live attendant clearly is not based on any automatically detected characteristic, it is just based on the failure to receive the requested input. In the second scenario (step 316, 324 or 334), the decision to route the call to a live attendant clearly is clearly and explicitly *based on a failure to recognize speech*, which is directly *contrary* to claim 1. Therefore, Garberg does not disclose or suggest selecting a destination to which a call should be routed based on an automatically detected characteristic, where the selection is *not based on the meaning of any speech or the failure to recognize any speech during the dialog*.

Likewise, Ladd also does not disclose routing a call based on an automatically detected characteristic of the person, the communication device, the communication channel, or an environment in which the person is located during the dialog, where the selection is *not based on the meaning of any speech or the failure to recognize any speech during the dialog*.

Therefore, no combination of Ladd and Garberg discloses or suggests all of the limitations of claim 1. Claim 29 includes similar limitations to those emphasized above in claim 1. For at least these reasons, therefore, claims 1 and 29 and all claims which depend on them are believed to be patentable over the cited art.

Claims 31 and 60

Claim 31 recites, "examining each of a plurality of audio-based dialogs . . . between a person and a machine, to automatically detect a characteristic for at least some of the dialogs . . . wherein the characteristic does not uniquely identify the person, the communication device, or any user account; and generating an overall characterization of the dialogs with respect to the characteristic" (emphasis added). Thus, claim 31 in effect relates to a group analysis and characterization of multiple human-machine dialogs. Claim 60 includes similar limitations.

Neither Ladd nor Garberg discloses or suggests examining a plurality of dialogs to automatically detect a characteristic, and then generating an overall characterization of the dialogs with respect to the characteristic, nor do these references suggest why it would be desirable to have such functionality. (As noted above, the Office Action grouped claims 31 and 60 with claims 1 and 29 and, therefore, did not take into account the differences between claims 31 and 60, on one hand, and claims 1 and 29 on the other hand.)

Therefore, no combination of Ladd and Garberg can produce all of the limitations of claim 31 or claim 60. For at least these reasons, therefore, claims 31 and 60 and all claims which depend on them are believed to be patentable over the cited art.

Claim 61

Claim 61 is similar to claim 1, but rather than reciting selecting a destination for the call (call routing) based on the characteristic, it instead recites dynamically customizing the call flow of the dialog for the person during the dialog, based on the detected characteristic, and not

based on the meaning of any speech or the failure to recognize any speech during the dialog. So for example, the system might detect that a caller is frustrated based on a characteristic of the caller's voice (other than what the caller is saying) and, therefore, the system might modify the call flow during the dialog in an attempt to reduce the caller's frustration. See Applicants' specification at, e.g., paragraph [0058].

Ladd does not disclose or suggest *dynamically customizing* the call flow of a dialog (not to be confused with *call routing*) for the person *during the dialog*, much less doing so *not based on* the meaning of any speech or the failure to recognize any speech during the dialog, but *based on* a characteristic (detected automatically during a call in real time) of the person, the communication device, the communication channel, or an environment in which the person is located during the dialog, where the characteristic does *not* uniquely identify the person, the communication device, or any user account.

Ladd discloses the well-known functionality of guiding a particular human-machine dialog *based on what the user says*. Therefore, to the extent the Examiner might interpret that functionality to be "*dynamically customizing the call flow*", in Ladd it is done in response to what the caller says and, therefore, is directly contrary to the claim 61 limitation that the call flow is customized *not based on* the meaning of any speech during the dialog.

Likewise, Garberg also does not disclose *dynamically customizing* the call flow of a dialog (again, not to be confused with *call routing*) for the person *during the dialog*, much less doing so *not based on* the meaning of any speech or the failure to recognize any speech during the dialog, but *based on* a characteristic (detected automatically during a call in real time) of the person, the communication device, the communication channel, or an environment in which the person is located during the dialog, where the characteristic does *not* uniquely identify the person, the communication device, or any user account.

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Therefore, no combination of Ladd and Garberg can produce all of the limitations of claim 61. For at least these reasons, therefore, claim 61 and all claims which depend on it are believed to be patentable over the cited art.

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Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

Conclusion

For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested.

If there are any additional charges, please charge Deposit Account No. 02-2666.

Respectfully submitted,

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